

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

BLUE SPIKE, LLC
Plaintiff,
v.
TEXAS INSTRUMENTS, INC.
Defendants

§ Civil Action No. 6:12-CV-499 MHS
§ LEAD CASE
§
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§
§

BLUE SPIKE, LLC,
Plaintiff,
v.
AUDIBLE MAGIC CORPORATION,
FACEBOOK, INC., MYSPACE, LLC,
SPECIFIC MEDIA, LLC,
PHOTOBUCKET.COM, INC.,
DAILYMOTION, INC.,
DAILYMOTION S.A., SOUNDCLOUD,
INC., SOUNDCLOUD LTD., MYXER,
INC., QLIPSO, INC., QLIPSO MEDIA
NETWORKS LTD., YAP.TV, INC.,
GOMISO, INC., IMESH, INC.,
METACAFE, INC., BOODABEE
TECHNOLOGIES, INC., TUNECORE,
INC., ZEDGE HOLDINGS, INC.,
BRIGHTCOVE INC.,
COINCIDENT.TV, INC., ACCEDO
BROADBAND NORTH AMERICA,
INC., ACCEDO BROADBAND AB,
AND MEDIAFIRE, LLC
Defendants.

§ Civil Action No. 6:12-CV-576 MHS
§ CONSOLIDATED CASE

**DECLARATION OF CHRISTOPHER HIGGINS IN SUPPORT OF AUDIBLE
MAGIC CORPORATION'S OPPOSITION TO SCOTT MOSKOWITZ'S MOTION TO
DISMISS AUDIBLE MAGIC CORPORATION'S COUNTERCLAIMS**

I, Christopher Higgins, declare under penalty of perjury that the following is true and correct:

1. I am an attorney at the law firm Orrick, Herrington & Sutcliffe, LLP, counsel of record for defendant Audible Magic Corp. (“Audible Magic”). I have personal knowledge of the facts set forth in this declaration, or access to information and records allowing me to confirm these facts. If called as a witness, I could testify competently to these facts under oath.

2. Attached hereto as **Exhibit A** is a true and correct copy of a screenshot of the website <http://www.bluespike.com>, accessed on September 27, 2013.

3. Attached hereto as **Exhibit B** is a true and correct copy of a screenshot of the Google search results for the search phrase “blue spike ‘first to create’”, accessed on September 27, 2013.

4. Attached hereto as **Exhibit C** is a true and correct copy of a screenshot of the website <http://bluespike.com/news/shazam-infringes-blue-spike-patents>, accessed on September 27, 2013.

I declare under penalty of perjury under the laws of the United States of America that the foregoing facts are true and correct based on my own personal knowledge.

Executed on October 7, 2013 in Washington, DC.



Christopher Higgins